

sued in 1998 by the Department of Defense Panel to Study Military Justice in the National Guard not in Federal Service.

“(2) The Secretary shall ensure that adequate support for the preparation of the model State code of military justice and the model State manual for courts-martial (including the detailing of attorneys and other personnel) is provided by the General Counsel of the Department of Defense, the Secretary of the Army, the Secretary of the Air Force, and the Chief of the National Guard Bureau.

“(3) If the funds available to the Chief of the National Guard Bureau are insufficient for paying the cost of the National Guard Bureau support required under paragraph (2) (including increased costs of pay of members of the National Guard for additional active duty necessitated by such requirement and increased cost of detailed attorneys and other staff, allowances, and travel expenses related to such support), the Secretary shall, upon request made by the Chief of the Bureau, provide such additional funding as the Secretary determines necessary to satisfy the requirement for such support.

“(4) Not later than one year after the date of the enactment of this Act [Dec. 2, 2002], the Secretary shall submit a report on the actions taken to carry out this subsection to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The report shall include proposals in final form of both the model State code of military justice and the model State manual for courts-martial required by paragraph (1), together with a discussion of the efforts being made to present those proposals to the States for their consideration for enactment or adoption, respectively.

“(5) In this subsection, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.”

#### **§ 328. Active Guard and Reserve duty: Governor’s authority**

(a) **AUTHORITY.**—The Governor of a State or the Commonwealth of Puerto Rico, Guam, or the Virgin Islands, or the commanding general of the District of Columbia National Guard, as the case may be, with the consent of the Secretary concerned, may order a member of the National Guard to perform Active Guard and Reserve duty, as defined by section 101(d)(6) of title 10, pursuant to section 502(f) of this title.

(b) **DUTIES.**—A member of the National Guard performing duty under subsection (a) may perform the additional duties specified in section 502(f)(2) of this title to the extent that the performance of those duties does not interfere with the performance of the member’s primary Active Guard and Reserve duties of organizing, administering, recruiting, instructing, and training the reserve components.

(Added Pub. L. 109–364, div. A, title V, § 526(a), Oct. 17, 2006, 120 Stat. 2196.)

#### **PRIOR PROVISIONS**

A prior section 328, act Aug. 10, 1956, ch. 1041, 70A Stat. 608, related to special courts-martial of the National Guard not in Federal service, prior to repeal by Pub. L. 107–314, div. A, title V, § 512(c), Dec. 2, 2002, 116 Stat. 2537, applicable with respect to courts-martial convened after Dec. 2, 2002.

#### **[§§ 329 to 333. Repealed. Pub. L. 107–314, div. A, title V, § 512(c)(1), Dec. 2, 2002, 116 Stat. 2537]**

Section 329, act Aug. 10, 1956, ch. 1041, 70A Stat. 608, related to summary courts-martial of National Guard not in Federal service.

Section 330, act Aug. 10, 1956, ch. 1041, 70A Stat. 609, related to confinement instead of fine for a court-martial in the National Guard not in Federal service.

Section 331, acts Aug. 10, 1956, ch. 1041, 70A Stat. 609; Pub. L. 100–456, div. A, title XII, § 1234(b)(3), Sept. 29, 1988, 102 Stat. 2059, related to sentence of dismissal or dishonorable discharge in the National Guard not in Federal service.

Section 332, act Aug. 10, 1956, ch. 1041, 70A Stat. 609, authorized the president of a court-martial or a summary court officer to compel attendance of accused and witnesses in the National Guard not in Federal service.

Section 333, acts Aug. 10, 1956, ch. 1041, 70A Stat. 609; Pub. L. 100–456, div. A, title XII, § 1234(b)(1), Sept. 29, 1988, 102 Stat. 2059, related to execution of process and sentence of courts-martial in the National Guard not in Federal service.

#### **EFFECTIVE DATE OF REPEAL**

Pub. L. 107–314, div. A, title V, § 512(c)(2), Dec. 2, 2002, 116 Stat. 2537, provided that: “The provisions of law repealed by paragraph (1) [repealing sections 328 to 333 of this title] shall continue to apply with respect to courts-martial convened in the National Guard not in Federal service before the date of the enactment of this Act [Dec. 2, 2002].”

#### **[§ 334. Repealed. Pub. L. 97–124, § 3, Dec. 29, 1981, 95 Stat. 1666]**

Section, added Pub. L. 94–464, § 2(b), Oct. 8, 1976, 90 Stat. 1986; amended Pub. L. 96–513, title V, § 515(3), Dec. 12, 1980, 94 Stat. 2937, provided for the payment of malpractice liability of National Guard Medical personnel. See sections 1089(a) of Title 10, Armed Forces, and 2671 of Title 28, Judiciary and Judicial Procedure.

#### **AMENDMENT AFTER REPEAL**

Pub. L. 97–258, § 3(h)(1), Sept. 13, 1982, 96 Stat. 1065, purported to substitute “section 1304 of title 31” for “section 1302 of the Act of July 27, 1956, (31 U.S.C. 724a)” in subsec. (a) of section 334 of this title, without reference to the earlier repeal of that section by Pub. L. 97–124, § 3, Dec. 29, 1981, 95 Stat. 1666.

#### **EFFECTIVE DATE OF REPEAL**

Repeal effective only with respect to claims arising on or after Dec. 29, 1981, see section 4 of Pub. L. 97–124, set out as an Effective Date of 1981 Amendment note under section 1089 of Title 10, Armed Forces.

#### **[§ 335. Repealed. Pub. L. 98–525, title IV, § 414(b)(2)(A), Oct. 19, 1984, 98 Stat. 2519]**

Section, added Pub. L. 98–94, title V, § 504(b)(1), Sept. 24, 1983, 97 Stat. 632, related to status of certain members of the National Guard performing full-time duty.

### **CHAPTER 5—TRAINING**

Sec.	
501.	Training generally.
502.	Required drills and field exercises.
503.	Participation in field exercises.
504.	National Guard schools and small arms competitions.
505.	Army and Air Force schools and field exercises.
506.	Assignment and detail of members of Regular Army or Regular Air Force for instruction of National Guard.
507.	Instruction in firing; supply of ammunition.
508.	Assistance for certain youth and charitable organizations.
509.	National Guard Youth Challenge Program of opportunities for civilian youth.

#### **AMENDMENTS**

2004—Pub. L. 108–375, div. A, title V, § 594(b)(2), Oct. 28, 2004, 118 Stat. 1936, substituted “National Guard Youth Challenge” for “National Guard Challenge” in item 509.

1997—Pub. L. 105–85, div. A, title X, §1076(b), Nov. 18, 1997, 111 Stat. 1914, added item 509.

1994—Pub. L. 103–337, div. A, title III, §385(b), Oct. 5, 1994, 108 Stat. 2742, added item 508.

### § 501. Training generally

(a) The discipline, including training, of the Army National Guard shall conform to that of the Army. The discipline, including training, of the Air National Guard shall conform to that of the Air Force.

(b) The training of the National Guard shall be conducted by the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands in conformity with this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 609; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(b)(7), Jan. 6, 2006, 119 Stat. 3442.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
501(a) .....	32:61 (1st 24 words).	June 3, 1916, ch. 134, §91,
501(b) .....	32:61 (less 1st 24 words).	39 Stat. 206.

In subsection (a), the words “that of” are substituted for the words “the system which is or may be prescribed for”. The word “Army” is substituted for the words “Regular Army”, since the Army is the category for which the discipline and training is prescribed and the Regular Army is a personnel category for which no discipline and training is prescribed. Similarly, the words “Air Force” are used instead of the words “Regular Air Force”.

#### AMENDMENTS

2006—Subsec. (b). Pub. L. 109–163 substituted “States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands” for “States and Territories, Puerto Rico, and the District of Columbia”.

1988—Subsec. (b). Pub. L. 100–456 struck out “the Canal Zone,” after “Puerto Rico,”.

#### DEMONSTRATION PROJECT TO INCREASE RESERVE COMPONENT INTERNET ACCESS AND SERVICES IN RURAL COMMUNITIES

Pub. L. 106–398, §1 [[div. A], title III, §390], Oct. 30, 2000, 114 Stat. 1654, 1654A–90, provided that:

“(a) AUTHORIZATION AND PURPOSE OF PROJECT.—The Secretary of the Army, acting through the Chief of the National Guard Bureau, may carry out a demonstration project in rural communities that are unserved or underserved by the telecommunications medium known as the Internet to provide or increase Internet access and services to units and members of the National Guard and other reserve components located in these communities.

“(b) PROJECT ELEMENTS.—In carrying out the demonstration project, the Secretary may—

“(1) establish and operate distance learning classrooms in communities described in subsection (a), including any support systems required for such classrooms; and

“(2) provide Internet access and services in such classrooms through GuardNet, the telecommunications infrastructure of the National Guard.

“(c) REPORT.—Not later than February 1, 2005, the Secretary shall submit to Congress a report on the demonstration project. The report shall describe the activities conducted under the demonstration project and include any recommendations for the improvement or expansion of the demonstration project that the Secretary considers appropriate.”

#### PILOT PROGRAM TO USE NATIONAL GUARD PERSONNEL IN MEDICALLY UNDERSERVED COMMUNITIES

Pub. L. 102–484, div. A, title III, §376, Oct. 23, 1992, 106 Stat. 2385, as amended by Pub. L. 103–160, div. A, title III, §365, Nov. 30, 1993, 107 Stat. 1629; Pub. L. 103–337, div. A, title III, §384, Oct. 5, 1994, 108 Stat. 2741, provided that:

“(a) PILOT PROGRAM.—The Chief of the National Guard Bureau shall enter into an agreement, approved by the Secretary of Defense, with each of the Governors of one or more States to carry out a pilot program during fiscal years 1993, 1994, and 1995 to provide training and professional development opportunities for members of the National Guard through the provision of health care to residents of medically underserved communities in those States with the use of personnel and equipment of the National Guard.

“(b) FUNDING ASSISTANCE.—Amounts made available from Department of Defense accounts for operation and maintenance and for pay and allowances to carry out the pilot program shall be apportioned by the Chief of the National Guard Bureau among those States with which the Chief has entered into approved agreements. In addition to such amounts, the Chief of the National Guard Bureau may authorize any such State, in order to carry out the pilot program during a fiscal year, to use funds received as part of the operation and maintenance allotments and the pay and allowances allotments for the National Guard of the State for that fiscal year.

“(c) SUPPLIES AND EQUIPMENT.—(1) Funds made available from Department of Defense operation and maintenance accounts to carry out the pilot program may be used for the purchase of supplies and equipment necessary for the provision of health care under the pilot program.

“(2) In addition to supplies and equipment provided through the use of funds under paragraph (1), supplies and equipment described in such paragraph that are furnished by a State, a Federal agency, a private agency, or an individual may be used to carry out the pilot program.

“(d) MAINTENANCE OF EFFORT.—The Chief of the National Guard Bureau shall ensure that each agreement under subsection (a) provides that the provision of services under the pilot program will supplement and increase the level of services that would be provided with non-Federal funds in the absence of such services, and will in no event supplant services provided with non-Federal funds.

“(e) COORDINATION AMONG PROGRAMS.—In carrying out the pilot program under subsection (a), the Chief of the National Guard Bureau shall consult with the Secretary of Health and Human Services for the purpose of ensuring that the provision of services under the pilot program are not redundant with the services of programs of such Secretary.

“(f) SERVICE OF PARTICIPANTS.—Service in the pilot program by a member of the National Guard shall be considered training in the member’s Federal status as a member of the National Guard of a State under section 270 [see 10147] of title 10, United States Code, and section 502 of title 32, United States Code.

“(g) REPORT.—The Secretary of Defense shall, not later than January 1, 1995, submit to the Congress a report on the effectiveness of the pilot program and any recommendations with respect to the pilot program.

“(h) DEFINITIONS.—In this section:

“(1) The term ‘health care’ includes the following services:

“(A) Medical care services.

“(B) Dental care services.

“(C) Transportation, by air ambulance or other means, for medical reasons.

“(2) The term ‘Governor’, with respect to the District of Columbia, means the commanding general of the District of Columbia National Guard.

“(3) The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.”